

EXHIBIT 17

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- - - - -X

MURASHEA "MIKE" BOVELL,

Plaintiff,

-against-

Case No.:

15 Civ. 8594

CITY OF MOUNT VERNON, New York,
Commissioner TERRANCE RAYNOR,
Individually and in his Official
Capacity, Deputy Commissioner
RICHARD BURKE, Individually and
in his Official Capacity,
Captain MICHAEL GOLDMAN, Individually
and in his Official Capacity,
Sergeant ROBERT WUTTKE, and Lieutenant
PAUL NAWROCKI, Individually and in his
Official Capacity,

Defendants.

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PORTIONS OF THIS TRANSCRIPT ARE DEEMED CONFIDENTIAL

November 4, 2016

1:40 p.m.

DEPOSITION of SERGEANT ROBERT WUTTKE, a Defendant herein,
taken pursuant to Notice, and held at Mount Vernon
City Hall, 1 Roosevelt Square, Mount Vernon, New
York, before Gabriel Alicea, a Court Reporter and
Notary Public of the State of New York.

1 A P P E A R A N C E S:

2

3 THE BELLANTONI LAW FIRM

4 Attorneys for Plaintiff

5 2 Overhill Road, Suite 400

6 Scarsdale, New York 10583

7 BY: AMY L. BELLANTONI, ESQ.

8

9 COUGHLIN & GERHART, LLP

10 Attorneys for Defendants

11 99 Corporate Drive

12 Binghamton, New York 13904

13 BY: PAUL J. SWEENEY, ESQ.

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20 ALSO PRESENT:

21 Police Officer Murashea Bovell

22 Det. Alec Francis

23

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SERGEANT ROBERT WUTTKE

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1 IT IS HEREBY STIPULATED AND AGREED by and
2 between the attorneys for the respective parties
3 herein, that filing and sealing be and the same are
4 hereby waived.

5 IT IS FURTHER STIPULATED AND AGREED that all
6 objections, except as to the form of the question,
7 shall be reserved to the time of the trial.

8 IT IS FURTHER STIPULATED AND AGREED that the
9 within deposition may be signed and sworn to before
10 any officer authorized to administer an oath, with
11 the same force and effect as if signed and sworn to
12 before the Court.

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SERGEANT ROBERT WUTTKE

(Plaintiff's Exhibit 13, PHOTOCOPY OF
PERSONNEL ORDER, was marked for
identification.)

(Plaintiff's Exhibit 14, COMPENSATORY TIME
REQUEST, was marked for identification.)

(Plaintiff's Exhibit 15, SUPERVISOR'S
REPORT, was marked for identification.)

(Plaintiff's Exhibit 16, LIST OF DAYS OFF,
was marked for identification.)

(Plaintiff's Exhibit 17, 3/31/14 EMAIL,
was marked for identification.)

(Plaintiff's Exhibit 18, ADMINISTRATIVE
GUIDE, was marked for identification.)

(Plaintiff's Exhibit 19, 3/27/14 EMAIL,
was marked for identification.)

SERGEANT ROBERT WUTTKE

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1 (Plaintiff's Exhibit 20, OFFICE OF THE
2 POLICE COMMISSIONER DOCUMENT, was marked
3 for identification.)
4

5 (Plaintiff's Exhibit 21, TYPEWRITTEN
6 LETTER, was marked for identification.)
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8 (Plaintiff's Exhibit 22, PERFORMANCE
9 EVALUATION FORM, was marked for
10 identification.)
11

12 (Plaintiff's Exhibit 23, PRINTOUT OF
13 COMPUTER SCREEN, was marked for
14 identification.)
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16 (Plaintiff's Exhibit 24, PRINTOUT OF
17 COMPUTER SCREEN, was marked for
18 identification.)
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20 (Plaintiff's Exhibit 25, PRINTOUT OF
21 COMPUTER SCREEN, was marked for
22 identification.)
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SERGEANT ROBERT WUTTKE

1 (Plaintiff's Exhibit 26, HANDWRITTEN
2 NOTES, were marked for identification.)

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4 (Plaintiff's Exhibit 27, PERFORMANCE
5 EVALUATION, was marked for
6 identification.)

7
8 (Plaintiff's Exhibit 28, AMENDED
9 EVALUATION, was marked for
10 identification.)

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12 (Plaintiff's Exhibit 29, PERFORMANCE
13 EVALUATION, was marked for
14 identification.)

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16 (Plaintiff's Exhibit 30, CODE OF CONDUCT
17 DOCUMENT, was marked for identification.)

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19 (Plaintiff's Exhibit 31, HARASSMENT
20 COMPLAINT FORM, was marked for
21 identification.)

SERGEANT ROBERT WUTTKE

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1 (Plaintiff's Exhibit 32, PRINTOUT OF TEXT
2 MESSAGES, was marked for identification.)
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4 (Plaintiff's Exhibit 33, CHARGE OF
5 DISCRIMINATION DOCUMENT, was marked for
6 identification.)
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8 SERGEANT ROBERT WUTTKE,
9 having been first duly sworn by the Notary Public
10 (Gabriel Alicea), was examined and testified as
11 follows:
12

EXAMINATION

BY MS. BELLANTONI:

15 Q. Good afternoon.

16 A. Good afternoon.

17 Q. My name is Amy Bellantoni. I represent
18 Officer Bovell and his lawsuit against the city and
19 yourself and certain other individuals employed with
20 the Mount Vernon Police Department and the city or
21 formerly employed there. Have you ever been deposed
22 before?

23 A. No, I haven't.

24 Q. I'm just going to ask you questions. And

SERGEANT ROBERT WUTTKE

1 I'm just looking for your best answers. I don't
2 want you to speculate or guess. If you're not sure
3 of something, just say, I don't recall, or, I don't
4 know. And I will assume that, if you answer my
5 question, that you understood what I was asking you
6 and were responding to my question.

7 If you don't understand a question --
8 sometimes, my questions are long. I'm sure you will
9 agree. Just let me know, and I will try to rephrase
10 it or shorten it so that you understand what I'm
11 trying to ask you. Okay?

12 A. Okay.

13 Q. The court reporter is taking down
14 everything that we're saying. So at some point,
15 there may come a time that you are anticipating what
16 the rest of my question is going to be and you start
17 answering before I'm done like a regular, casual
18 conversation, but that's going to make it difficult
19 for him to get down everything that we're saying if
20 we are talking over each other. So I will try to
21 wait until you are done giving your answer before I
22 give a follow-up question. And I will just ask that
23 you wait until I'm finished asking my question
24 before you start to answer. Is that fair?

SERGEANT ROBERT WUTTKE

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1 A. Fair enough.

2 Q. All right. Are you taking any medication
3 today that would interfere with your ability to
4 understand my questions?

5 A. No.

6 Q. Have you forgotten to take or did not take
7 any medication that you should have taken?

8 A. No.

9 Q. Where are you currently employed?

10 A. City of Mount Vernon Police Department.

11 Q. And just for the record, I can see you,
12 but can you state what your race is?

13 A. White.

14 Q. When were you first hired to work in the
15 City of Mount Vernon Police Department?

16 A. August of 2003.

17 Q. And what did you do before that?

18 A. I worked as a recreational therapist at an
19 acute care psychiatric facility.

20 Q. Where?

21 A. Ossining.

22 Q. What was the name of the facility?

23 A. Stony Lodge Hospital.

24 Q. What were you -- what was your position

1 there?

2 A. Recreational therapist.

3 Q. You did say that. And what were your
4 duties and responsibilities in that regard?

5 A. I dealt predominantly with adolescents
6 with acute psychiatric illness, and my ultimate
7 goals were to give them positive ways to express
8 themselves and/or vent their frustration or anger
9 without going into a range, a fit, a tantrum.

10 Q. What was the age range of the kids in the
11 facility?

12 A. The youngest child I dealt with was six
13 years old, and it went all the way up to 18.

14 Q. And this was a residential facility?

15 A. An acute care hospital.

16 Q. And forgive me, but I'm not familiar with
17 this type of facility. So were the individuals who
18 were in the hospital -- were there times that they
19 would leave the hospital and be discharged, or was
20 this a residential-type setting where they would
21 remain because they couldn't be placed back into the
22 community?

23 A. It was a facility for the -- the patients
24 resided there, but it was acute care. It was only

SERGEANT ROBERT WUTTKE

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1 until we can stabilize the patient enough to go back
2 to a less secure facility or back to a group home or
3 back to their families.

4 Q. And how long did you work there?

5 A. Just shy of a year.

6 Q. Where did you work before that?

7 A. I was in college.

8 Q. Okay. Where did you graduate from?

9 A. University of Buffalo.

10 Q. And what was your major?

11 A. Psychology.

12 Q. What made you take -- did you take the
13 police exam to get into the department?

14 A. Yes, ma'am.

15 Q. And what made you decide to go into a
16 different direction?

17 A. I didn't want to sit in an office all day
18 doing paperwork.

19 Q. So when you were hired in August of 2003
20 after attending the academy, you were assigned to
21 patrol; is that fair to say?

22 A. Yes.

23 Q. And how long were you in patrol?

24 A. Just over two years.

SERGEANT ROBERT WUTTKE

1 Q. Did you apply at any other police
2 departments other than Mount Vernon?

3 A. Yes, ma'am.

4 Q. Where did you apply?

5 A. New York City Police Department, the
6 United States Capital Police. Those are the only
7 two that I can remember for sure, off the top of my
8 head.

9 Q. Are you from Westchester, originally?

10 A. Yes, ma'am.

11 Q. You didn't apply to any other police
12 departments other than Mount Vernon in Westchester
13 County?

14 A. At the time I was taking the exams, the
15 Westchester County -- other village test wasn't
16 available.

17 Q. And after you finished your assignment and
18 patrol, what was your next assignment?

19 A. I was assigned to the TRACI unit.

20 Q. Can you spell that?

21 A. T-R-A-C-I.

22 Q. Do you remember, approximately, when you
23 were assigned to that unit?

24 A. Early spring of 2006.

SERGEANT ROBERT WUTTKE

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1 Q. And what is that?

2 A. TRACI unit was a uniformed conditions unit
3 that worked in conjunction with the New York State
4 Police and the Mount Vernon Police street crimes
5 unit.

6 Q. What crimes?

7 A. Street crimes.

8 Q. Street crimes. And what were your
9 responsibilities there?

10 A. They varied day-to-day. Three days a
11 week, we were assigned with a New York State Trooper
12 to do high-presence, high-visibility patrol, traffic
13 enforcement, quality of life enforcement. Other
14 days, we were assigned with the members of the
15 street crimes unit to do street crimes work.

16 Q. Did the members of the street crimes unit
17 have a different rank? In other words, were they
18 detectives and you were a patrolman or -- I don't
19 understand what you mean when you say you were
20 assigned to the other officers with the street
21 crimes unit.

22 A. They were police officers that were
23 assigned to a different unit than I was.

24 Q. Does TRACI stand for something? Is it

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SERGEANT ROBERT WUTTKE

1 TRACI -- does it stand for --

2 A. I don't want to interrupt you if you are
3 not --

4 Q. That's fine. Does it stand for --

5 A. Targeted response anti-crime initiative.

6 Q. And when you were assigned to the state
7 trooper, were you in a marked state trooper vehicle
8 or a Mount Vernon police car?

9 A. New York State Trooper.

10 Q. And is being in -- assigned to the TRACI
11 unit, is that something you were -- applied for or
12 approached to work in that unit?

13 A. I was approached to work in that unit.

14 Q. Who were you approached by?

15 A. Then, Captain Kelly.

16 Q. And in 2006, were there any
17 African-American officers assigned to the TRACI
18 unit?

19 A. Yes.

20 Q. And who was assigned there? Well,
21 withdrawn.

22 Approximately, how many officers were
23 assigned to the TRACI unit in spring 2006?

24 A. Five.

SERGEANT ROBERT WUTTKE

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1 Q. And who were the African-American officers
2 assigned to that unit?

3 A. Police Officer Leonard Cooper, Police
4 Officer Alan Patterson, and Police Officer
5 Latheia -- pardon me. I'm trying to figure out what
6 her last name was at that time. It was either
7 Latheia Daniels or Latheia Smith. I don't remember
8 when she got married.

9 Q. Okay. At some point, you left the TRACI
10 unit and went on to another assignment?

11 A. Yes.

12 Q. And what was that assignment?

13 A. Back to patrol division.

14 Q. Okay. And under what circumstances did
15 you leave the TRACI unit to return to the patrol
16 division?

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*****START CONFIDENTIAL*****

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SERGEANT ROBERT WUTTKE

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Country	Year	Value	Unit
Algeria	2000	1.0	1000
Algeria	2001	1.0	1000
Algeria	2002	1.0	1000
Algeria	2003	1.0	1000
Algeria	2004	1.0	1000
Algeria	2005	1.0	1000
Algeria	2006	1.0	1000
Algeria	2007	1.0	1000
Algeria	2008	1.0	1000
Algeria	2009	1.0	1000
Algeria	2010	1.0	1000
Algeria	2011	1.0	1000
Algeria	2012	1.0	1000
Algeria	2013	1.0	1000
Algeria	2014	1.0	1000
Algeria	2015	1.0	1000
Algeria	2016	1.0	1000
Algeria	2017	1.0	1000
Algeria	2018	1.0	1000
Algeria	2019	1.0	1000
Algeria	2020	1.0	1000
Algeria	2021	1.0	1000
Algeria	2022	1.0	1000
Algeria	2023	1.0	1000
Algeria	2024	1.0	1000
Algeria	2025	1.0	1000
Algeria	2026	1.0	1000
Algeria	2027	1.0	1000
Algeria	2028	1.0	1000
Algeria	2029	1.0	1000
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Algeria	2070	1.0	1000
Algeria	2071	1.0	1000
Algeria	2072	1.0	1000
Algeria	2073	1.0	1000
Algeria	2074	1.0	1000
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Algeria	2080	1.0	1000
Algeria	2081	1.0	1000
Algeria	2082	1.0	1000
Algeria	2083	1.0	1000
Algeria	2084	1.0	1000
Algeria	2085	1.0	1000
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Algeria	2087	1.0	1000
Algeria	2088	1.0	1000
Algeria	2089	1.0	1000

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SERGEANT ROBERT WUTTKE

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SERGEANT ROBERT WUTTKE

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*****END CONFIDENTIAL*****

SERGEANT ROBERT WUTTKE

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1 Q. And when you had first begun your career
2 in --

3 MS. BELLANTONI: And this can be not
4 confidential any longer.

5 Q. When you had started your career in the
6 Mount Vernon Police Department, for the first year
7 or two, did you have any supervisor or someone in a
8 higher rank than yourself that you considered a
9 mentor or that, you know, assisted you or maybe your
10 field training officer, anyone of that type of
11 relationship?

12 A. Yes.

13 Q. And who would that have been?

14 A. I had my field training officer, which is
15 Police Officer Kenny Rella.

16 Q. Is he still on the job?

17 A. No, ma'am.

18 Q. Anyone else?

19 A. The first sergeant that I worked for. I
20 worked for him for almost my whole first two years
21 of patrolling. That was -- at the time, he was
22 sergeant Kevin Mandell.

23 Q. Is he still with the department?

24 A. No, ma'am.

SERGEANT ROBERT WUTTKE

MS. BELLANTONI: Okay. So this is
confidential.

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SERGEANT ROBERT WUTTKE

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1 *****START CONFIDENTIAL*****

2 [REDACTED]

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SERGEANT ROBERT WUTTKE

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MS. BELLANTONI: So now we're back on
nonconfidential.

*****END CONFIDENTIAL*****

SERGEANT ROBERT WUTTKE

25

1 Q. For how long did you remain in that
2 capacity?

3 A. Several months.

4 Q. So that would have been in 2007? At some
5 point, that came to an answered in 2007?

6 A. Came to an end in the beginning of 2007.

7 Q. Okay. And then where were you assigned?

8 A. After reassignment to patrol, I was
9 assigned to the operations division and/or patrol
10 clerk.

11 Q. And how was that assignment different from
12 what you had been doing before?

13 A. I was assigned inside the patrol division
14 office. I worked only day tours Monday through
15 Friday.

16 Q. Were you pleased with that assignment?

17 A. No.

18 Q. Some people like to be out. Yeah. So you
19 weren't -- okay. What circumstances existed that
20 caused your assignment inside?

21 A. The person who was the clerk at the time
22 was going out on maternity leave. I was asked if I
23 would accept the assignment, and I did.

24 Q. Were you given a time frame as to how long

1 you would be doing that?

2 A. No, ma'am.

3 Q. Who asked you to accept the assignment?

4 A. I don't recall exactly -- the exact
5 circumstances. The clerk that was going out on
6 maternity leave asked me if I would be willing to
7 take the position. I said, I guess. And I don't
8 know if it was the deputy chief or the captain who
9 ultimately said, will you take the position.

10 Q. And what was the name of the patrol clerk?

11 A. Laura -- again, you will have to excuse
12 me. She got married at some point during my career.
13 Either Sakouski or Hurley. I don't remember which
14 it was at that point in time.

15 Q. What were your responsibilities as the
16 patrol clerk?

17 A. Scheduling overtime, entering days off,
18 entering vacations, planning for the following
19 year's scheduling, planning for special events as in
20 hiring and reassigning people for, you know, that
21 particular event.

22 Q. Who did you report to?

23 A. Captain Robert Kelly and Deputy Chief John
24 Roland.

SERGEANT ROBERT WUTTKE

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1 Q. Roland?

2 A. Roland.

3 Q. And Kelly's first name?

4 A. Robert.

5 Q. Was there any pay differential in your
6 position in the operations division versus your
7 prior position at patrol?

8 A. No.

9 Q. Were you allowed to do overtime in the new
10 position?

11 A. If the overtime was available on my time
12 off.

13 Q. Between the time that you were with the
14 patrol squad and the time that you had completed
15 your assignments in the operations division, were
16 you subjected to any disciplinary proceedings?

17 A. No, ma'am.

18 Q. And so after you were -- how long were you
19 in the operations division?

20 A. A few months.

21 Q. Okay. So, at some point then in 2007, you
22 were reassigned somewhere else?

23 A. The end of 2007, December, I was
24 reassigned to the patrol task force.

1 Q. Was that an open position that you applied
2 for, or were you approached for that?

3 A. I was approached.

4 Q. By who?

5 A. Captain Robert Kelly.

6 Q. And what were your responsibilities in
7 that position?

8 A. I was plain-clothes street crime work.

9 Q. And you talked about the street crime unit
10 you worked in before, with the TRACI unit. Was that
11 what the patrol task force was?

12 A. Yes. Same idea, different name.

13 Q. Same people?

14 A. No.

15 Q. Did street crime unit still exist at the
16 time that you were in the patrol task force?

17 A. Patrol task force became the street crime
18 unit. I think they thought it was a more
19 politically correct name.

20 Q. So what were your responsibilities in that
21 position?

22 A. Plain-clothes street crime work.

23 Q. Undercover work, or were you developing
24 CIs? Did you work with a partner? Did you have

SERGEANT ROBERT WUTTKE

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1 specific assignments? What were your objectives,
2 you know, as part of that group?

3 A. I was undercover. I was in plain clothes.
4 I did work with a partner until he was injured. We
5 did develop CIs on occasion. It wasn't our primary
6 task. Our primary task was to be out in the
7 high-crime areas or out where we were experiencing
8 some type of pattern crime to try and quell that and
9 move on to the next task.

10 Q. Were -- did you, as a group, utilize
11 undercovers as part of your objectives?

12 A. No, ma'am.

13 Q. So neither you -- you didn't do undercover
14 work in that connection, and you didn't use
15 undercovers as part of any operations while you were
16 in that division; correct?

17 A. No, ma'am.

18 Q. And when did you leave that unit?

19 A. Summer of 2008.

20 Q. And where did you go?

21 A. Narcotics. Excuse me. I misspoke. I had
22 a brief assignment in between to the intelligence
23 unit.

24 Q. How long were you in the intelligence

1 unit?

2 A. Just a few weeks.

3 Q. When you were assigned to the patrol task
4 force, approximately how many months were you there?

5 A. Seven-and-a-half.

6 Q. And you were still -- had the rank of
7 police officer?

8 A. Yes, ma'am.

9 Q. Did you do any investigative work while
10 you were in that position? In other words, did you
11 develop your own investigations, or were you
12 basically working at the direction of possibly a
13 supervisor or other detectives in that unit?

14 A. I was working under the direction of a
15 supervisor. We executed search warrants. However,
16 we didn't do long-term investigations.

17 Q. And who was your supervisor?

18 A. Sergeant John Mangieri.

19 Q. And were there individuals in that unit
20 that had the title of detective?

21 A. Yes.

22 Q. So how many detectives -- I'm just going
23 to call it the street crime unit. How many
24 detectives were there at the time? And how many

SERGEANT ROBERT WUTTKE

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1 police officers?

2 A. There was one detective, five police
3 officers.

4 Q. And John Mangieri, what was his title?

5 A. Sergeant.

6 Q. What were the circumstances under which
7 you were assigned to the intelligence unit?

8 A. I was moving up to the detective division.
9 I was familiar with the work intelligence did,
10 because when I was the operations clerk, the
11 intelligence unit operated out of the office that I
12 worked out of, and they needed help for a couple of
13 weeks.

14 Q. So you helped them out when you were in
15 the operations division?

16 A. On occasion.

17 Q. And what did you do at that time for them?

18 A. If one of the members of the intelligence
19 units were out, I would assist in prisoner
20 debriefings in the morning.

21 Q. Alone or with someone else?

22 A. No. With someone else, ma'am.

23 Q. Did you receive any training before you
24 were assigned to the street crime unit?

1 A. In what regards?

2 Q. In -- other than the training that you
3 received in the academy with respect to recognizing,
4 you know, drug activity or protocol for executing
5 search warrants, in those general basic types of
6 instruction, did you receive any additional
7 instruction at all before going into the street
8 crime unit or while you were in the street crime
9 unit?

10 A. Formalized instruction, no. I learned
11 from the sergeant.

12 Q. You didn't attend any seminars or any
13 outside or in-house training?

14 A. No, ma'am.

15 Q. Does the department have any in-house
16 training programs?

17 A. Yes.

18 Q. Okay. And from the point in time you were
19 hired until you were in the intelligence unit, did
20 you take advantage of any of the in-house training
21 that they provided?

22 A. I attended the five mandatory yearly
23 trainings every year.

24 Q. Are they the same topics every year?

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1 A. Just about.

2 Q. Okay. And what are those topics?

3 A. First aid CPR, firearms and article 35,
4 defensive tactics, legal updates, and then the other
5 one varies, I guess. I can't think of anything else
6 off the top of my head that we do every year.

7 Q. And who is responsible for providing the
8 training?

9 A. The training unit.

10 Q. Who is currently the head of the training
11 unit?

12 A. I don't know.

13 Q. Okay. So when you were assigned to the
14 intelligence unit, who did you report to?

15 A. Lieutenant Marcel Olifiers.

16 Q. And had you been supervised by lieutenant
17 Olifiers prior to that time?

18 A. I'm sure, at some point or another, there
19 was a time where he supervised me.

20 Q. Were you approached to go into the
21 intelligence unit, or did you request to be
22 transferred there?

23 A. I was approached.

24 Q. By whom?

SERGEANT ROBERT WUTTKE

1 A. Lieutenant Olifiers.

2 Q. And you had mentioned you were moving up
3 to the detective division. Under what circumstances
4 were you moving up to the detective division and to
5 what unit?

6 A. I was told I was moving up to the
7 detective division.

8 Q. Did they tell you what unit?

9 A. When I went up there, I was told I was
10 going to intelligence or asked if I would go to
11 intelligence.

12 Q. And you responded --

13 A. Yes.

14 Q. And that's when you spent a few weeks in
15 the intelligence unit?

16 A. Yes, ma'am.

17 Q. So you -- is it fair to say, at some
18 point, you left the intelligence unit and were
19 assigned to the narcotics unit?

20 A. Yes, ma'am.

21 Q. Did you request to be assigned to the
22 narcotics unit, or did someone approach you?

23 A. I was request -- I'm sorry. I actually
24 asked not to be assigned to the narcotics unit.

SERGEANT ROBERT WUTTKE

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1 Q. Who was -- who was the head of the
2 narcotics unit at that time?

3 A. Sergeant Daniel Fisher.

4 Q. And what time frame are we talking about?

5 A. Summer of 2008.

6 Q. Who else was in that unit at that time?

7 A. Detective Fegan, Detective Dimase --

8 Q. D-I-M-A-C-E?

9 A. D-I-M-A-S-E.

10 Q. Okay.

11 A. I don't know if -- Medina was there. I
12 don't know if he was a detective or a patrolman at
13 that time. I think he was a detective. And there
14 was two, I believe, detectives leaving the unit as I
15 was being assigned in.

16 Q. Any other patrolmen being assigned into
17 the narcotics unit?

18 A. The day I was assigned or the timeframe I
19 was assigned, another patrolman was assigned there
20 as well.

21 Q. And who was that?

22 A. Robert Burke.

23 Q. Had you worked with Officer Burke before?

24 A. Yes, ma'am.

SERGEANT ROBERT WUTTKE

1 Q. Okay. So in summer of 2008 -- withdrawn.

2 Sergeant Fisher is Caucasian?

3 A. Yes.

4 Q. Detective Fegan is Caucasian?

5 A. Yes.

6 Q. Officer Burke is Caucasian?

7 A. Yes.

8 Q. Detective Dimase is Caucasian?

9 A. Yes.

10 Q. Officer Medina or Detective Medina is
11 Caucasian or Hispanic?

12 A. Hispanic.

13 Q. And who was leaving? Who were the
14 detectives that were leaving?

15 A. Detective Stella and Detective
16 Mastrogiorgio.

17 Q. Were they leaving the department?

18 A. No.

19 Q. Where were they going?

20 A. General investigations.

21 Q. Are they both Caucasians?

22 A. Yes.

23 Q. Is it your understanding that they
24 requested to leave the unit?

SERGEANT ROBERT WUTTKE

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1 A. I have no idea.

2 Q. Do you know the circumstances under which
3 they left Sergeant Fisher's unit?

4 A. No, ma'am.

5 Q. Why did you ask not to be assigned to
6 narcotics?

7 A. I was in a relationship. I had just moved
8 in with my then fiancée. Working day tours in the
9 intelligence unit made it available to actually have
10 a life.

11 Q. And who did you request -- who did you
12 make that request to?

13 A. Lieutenant Olifiers.

14 Q. And what did he say?

15 A. Somebody else is being assigned to
16 intelligence. We don't have a spot for you.

17 Q. Who was being assigned to intelligence?

18 A. Krista Mann.

19 Q. These positions in these various units,
20 are they openings that are posted? In other words,
21 do you have knowledge before they are filled that
22 they are going to be open, such that you have time
23 to apply or approach someone about going into that
24 position?

SERGEANT ROBERT WUTTKE

1 A. Depends on the position. Depends on who
2 is in charge at the time.

3 Q. So once you were assigned to the narcotics
4 unit -- how long were you assigned there?

5 A. Just under two years.

6 Q. And what were your duties and
7 responsibilities?

8 A. Narcotics investigations, executing search
9 warrants, surveillance. I had arrest warrants and
10 bench warrants that were assigned to me that I
11 needed to follow up on.

12 Q. And when you say "investigations," were
13 you assisting the detectives in their
14 investigations, or were you actually conducting your
15 own investigations?

16 A. Both.

17 Q. And what investigations did you conduct on
18 your own?

19 A. Off the top of my head, I can't remember
20 which ones were --

21 Q. Not names. Just generally, if you can
22 recall, what types of investigations you initiated
23 or --

24 A. Narcotics investigations.

SERGEANT ROBERT WUTTKE

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1 Q. More specifically --

2 A. Sale of illegal narcotics, possession of
3 illegal narcotics.

4 Q. Talking long-term --

5 A. My investigations were all relatively
6 short-term.

7 Q. Okay. We're talking about just street
8 sales that you see, you know, buy and bust
9 operations, or are we talking about targeting homes
10 where people are going in and buying narcotics?
11 Just trying to get a feel for it.

12 A. Targeting homes, cars, businesses.

13 Q. Was that based on CIs or any information
14 that was supplied to you in the unit, or was that
15 based on just being out there and observing possible
16 drug activity?

17 A. Every situation was different. Some of it
18 was complaints that were received through -- I
19 received through Sergeant Fisher that he received
20 through other channels. Some of it was information
21 from CIs. Some of it was based off of observations.

22 Q. Okay. And while you were in the narcotics
23 unit, did you have an opportunity to develop your
24 own CIs?

1 A. Yes, ma'am.

2 Q. What was the policy and procedure with
3 respect to identifying a confidential informant and
4 registering them with the department? And how is
5 that information memorialized with the department,
6 procedurally?

7 A. There is a packet, six pages, I believe,
8 of information needed to be filled out. A criminal
9 history had to be attached to it. The potential
10 informant would have to be interviewed by the
11 supervisor. He would make a recommendation as to
12 whether that informant was -- he considered that
13 informant reliable and whether the informant should
14 be registered. At that point, the packet went off
15 to his supervisor.

16 Q. And so when you say the supervisor would
17 make a recommendation and interview the CI, at that
18 point in time, that was Sergeant Fisher?

19 A. Yes, ma'am.

20 Q. Did -- during the two years that were in
21 that unit, did you have a supervisor other than
22 Sergeant Fisher? In other words, did he leave at
23 any point in time? Was he replaced during those two
24 years?

SERGEANT ROBERT WUTTKE

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1 A. He left for vacations.

2 Q. Was he reassigned from his position --

3 A. I'm sorry. I wasn't trying to be
4 contrite. When he went on vacation, we would have
5 another supervisor in the office.

6 Q. Okay. But he generally permanently held
7 that title during the two years that you were in the
8 narcotics unit?

9 A. Almost the whole two years.

10 Q. When did -- he didn't hold that title?

11 A. A couple months before I left, he was
12 reassigned back to patrol.

13 Q. And his title was Fisher -- his title was
14 sergeant at that time; correct?

15 A. Detective sergeant.

16 Q. And what was -- if you know, what was his
17 position when he was reassigned back to patrol?

18 A. Patrol supervisor.

19 Q. Was he still the title of detective
20 sergeant?

21 A. I don't remember.

22 Q. Or would the title just have been sergeant
23 at that time, patrol supervisor?

24 A. It could have been either.

1 Q. Is it lieutenant?

2 A. Now, it's lieutenant.

3 Q. Was it then?

4 A. No.

5 Q. During the time that you were in the
6 narcotics unit, did you have an opportunity to
7 engage in any buy and bust scenarios?

8 A. I'm sorry. Did I have an opportunity to
9 what?

10 Q. Be in any buy and bust scenarios or
11 operations.

12 A. Can you be a little bit more specific what
13 you mean, "Buy and bust"?

14 Q. Okay. So, for instance, you have a
15 registered CI, and -- well, let me ask you this:
16 What was the policy and procedure of the department
17 at that time with respect to -- and I apologize. I
18 thought it was -- when I was in the DA's office, it
19 was a pretty known term. But -- so if you have
20 someone who is going to be out there selling or
21 buying, approaching someone to buy from them, you
22 would have, in some divisions or some departments,
23 pre-marks or recorded buy money, and they would
24 approach someone. And later on, that person would

SERGEANT ROBERT WUTTKE

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1 be arrested for selling. So in those types of
2 circumstances, were you involved in any
3 investigations in that respect?

4 A. I had instructed informants of mine to buy
5 from certain people, if they had the ability to. I
6 was involved for a very short period of time,
7 because the investigation didn't pan out, when we
8 were using an undercover Westchester County officer
9 to buy drugs. When using informants, the policy,
10 whether it was written or not, we weren't going to
11 use our informants to buy off the street and then
12 immediately go grab the dealer for fear of risking
13 the safety of the informant. That's why I asked you
14 to be more specific on buy and bust. Because when
15 we use an undercover, we get to make arrests
16 relatively quickly. But when we used CIs, we
17 didn't.

18 Q. So those would be a longer-term process,
19 where you would hide the identity of the person they
20 had purchased from, and maybe not even effect an
21 arrest until months later so there was no connection
22 to the CI?

23 A. Normally not months later.

24 Q. Weeks?

1 A. Weeks.

2 Q. Days?

3 A. Not if it was a street-level buy, no. If
4 they bought from a house, it could be within a day.

5 Q. While you were in the narcotics unit,
6 aside from using either an undercover or a CI to buy
7 from an individual from a home or what have you, did
8 you also -- were you also involved in investigations
9 or operations where your CI was a seller, and you
10 were -- your unit was targeting the purchaser of the
11 narcotics?

12 A. Not that I can remember.

13 Q. Is there any reason why there wouldn't be
14 that type of reverse operation or investigation?

15 A. I've never -- I've never heard of it being
16 done. I was never -- like I said, I can't remember
17 ever having given an informant the okay to sell
18 drugs.

19 Q. From your understanding of the policies
20 and procedures of the department, would that have
21 been a violation of any policy or procedure, to use
22 a CI to sell narcotics in the community for purposes
23 of making arrests of the purchasers?

24 A. I don't know if that's a violation of

SERGEANT ROBERT WUTTKE

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1 department rules and regs.

2 Q. Would it be a violation of the penal law?

3 A. I don't know. Morally, I don't think it's
4 right. I think it's counterproductive getting drugs
5 off the street by allowing drugs to be put out
6 there.

7 Q. In your connection with your understanding
8 of the policies and procedures of the department,
9 would that type of situation rise to the level of
10 violating any -- or subjecting that individual,
11 narcotic officer, to disciplinary action? In other
12 words, would there be a violation of any -- would
13 there be misconduct or a violation of any
14 disciplinary rules, to your knowledge?

15 A. I don't know, because I don't know that
16 that's -- I'm not aware of that circumstance ever
17 happening. That would depend on the -- was that
18 sanctioned by some other -- sanctioned by a
19 supervisor? Was there a reason why they were
20 allowing it to happen? I think that would be
21 something that would have to be evaluated on a
22 case-by-case basis.

23 Q. But in your two years in the narcotics
24 unit, you never heard of anything like that?

SERGEANT ROBERT WUTTKE

1 A. No, ma'am.

2 Q. Are you familiar with what's been referred
3 to as the black book within the narcotics unit that
4 records arrests or the number of arrests that are
5 made from the officers or detectives within that
6 unit?

7 A. I never heard of it referred to as the
8 black book, but I am familiar with the arrest book
9 that was kept.

10 Q. Okay. What color is it?

11 A. At the time, I think it was a blackish,
12 brownish, with a red binder.

13 Q. And to your knowledge, is it still
14 maintained within the narcotics unit?

15 A. Yes.

16 Q. And what type of information is contained
17 within that book?

18 A. Date of the arrest, person arrested,
19 incident number, crime, and the detective or officer
20 that made the arrest.

21 Q. And what was your understanding of the
22 purpose of having that book in the unit?

23 A. Make it easier to keep stats.

24 Q. Did you -- was there a feeling of healthy

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1 competition among the officers there to have higher
2 stats than other officers in the unit?

3 A. Yes.

4 Q. Were you ever, either formally or
5 informally, or given the impression or told
6 specifically to have any certain number of arrests
7 or quota, to fill a quota within a certain time
8 period?

9 A. No, ma'am.

10 Q. And while you were in the narcotics unit,
11 was Sergeant Fegan in that unit with you for the
12 entire two years?

13 A. He wasn't a sergeant.

14 Q. He was a detective; correct?

15 A. Yes.

16 Q. And he was a detective, yes?

17 A. Yes.

18 Q. And was he with you for the entire two
19 years?

20 A. He may have been reassigned at the very
21 end of my tenure there up to the DEA task force.

22 Q. Did you ever work with Detective Fegan on
23 any -- any operations or investigations while you
24 were in the narcotics unit?

SERGEANT ROBERT WUTTKE

1 A. Yes.

2 Q. And did you have an opportunity to observe
3 him make any disparaging or racial comments in
4 connection with either other black officers or the
5 black citizens within the City of Mount Vernon?

6 A. No.

7 Q. You have never heard him say anything that
8 was disparaging about minorities or the citizens of
9 Mount Vernon, generally?

10 A. No.

11 Q. Have you ever heard him say anything that
12 was disparaging about the City of Mount Vernon?

13 MR. SWEENEY: Objection to form, but you
14 can answer, if you know.

15 Q. The citizenry of Mount Vernon.

16 A. No.

17 Q. And likewise, have you ever heard or had
18 conversations with Detective Sergeant Fisher that
19 indicated or he made racial -- discriminatory racial
20 remarks, disparaging remarks, about either black or
21 non-Caucasian officers, detectives, or citizens of
22 Mount Vernon?

23 A. No, ma'am.

24 Q. From the time you worked in the narcotics

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1 unit to the present day, are you aware of whether
2 other officers within the department have expressed
3 concern or displeasure with either detective, now
4 sergeant, Fegan or Lieutenant Fisher in connection
5 with disparaging remarks or discriminatory treatment
6 toward African-Americans within the department or
7 the citizens of Mount Vernon?

8 MR. SWEENEY: Object to the form of the
9 question, but you can answer it.

10 A. Are you asking if I ever heard somebody
11 say that one or both of them are racist?

12 Q. To that extent.

13 A. Yes, I have heard that.

14 Q. And who, generally, have you heard that
15 from?

16 A. I've heard it as a -- a run-of-the-mill
17 grapevine, I've heard this, I've heard that.

18 Q. Have police officers ever mentioned in a
19 conversation with you or in your presence wherein
20 they expressed their opinion or belief that either
21 of those two officers were disparaging towards
22 non-Caucasians, whether in the department or within
23 the City of Mount Vernon?

24 A. No. People don't have those conversations

1 with me.

2 Q. You had mentioned which officers and
3 detectives were in the narcotics unit when you first
4 arrived. Did any of them change? In other words,
5 at the end of the two years, was it still yourself,
6 Officer Burke, Detective Fegan, Detective Dimase,
7 Detective Medina?

8 A. No.

9 Q. Okay. And who came in; and who left? Let
10 me put this way, who did you have the opportunity to
11 work with other than those people?

12 A. Police Officer Antinini, Detective Latheia
13 Smith, Police Officer Greg Addison, Detective
14 Courtney Besley, Detective Chris Hutchins, Police
15 Officer Danny Ibanez.

16 Q. Can you spell that?

17 A. I-B-A-N-E-Z.

18 Q. And did you have an opportunity to work
19 with -- is it Officer Antinini at the time, or --

20 A. Yes, ma'am. Officer.

21 Q. Did you have an opportunity to work with
22 him on any assignments?

23 A. Yes, ma'am.

24 Q. And approximately how many?

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1 A. When I worked in narcotics, if there was a
2 search warrant to be executed, we all did it
3 together. Each individual officer or each
4 individual team worked on their own investigations.
5 But when it came to the culmination, we all worked
6 together. So a lot.

7 Q. So is it fair to say you worked with
8 Officer Antinini and Detective Fegan in the
9 execution of search warrants?

10 A. Yes, ma'am.

11 Q. And how about in the execution of making
12 arrests?

13 A. It would depend on the circumstances.

14 Q. Have you ever been present or involved in
15 any arrest that officer Antinini has made?

16 A. Yes.

17 Q. And at any of those times, have you
18 observed Officer Antinini use force that was more --
19 more force than was reasonably necessary under the
20 circumstances?

21 A. No, ma'am.

22 Q. Are you aware of whether other people have
23 complained of Officer Antinini's use of force?

24 A. By "other people" --

Q. Other officers. I apologize.

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24 *****END CONFIDENTIAL*****

SERGEANT ROBERT WUTTKE

1 Q. Do you know who would have been working
2 that day or who was working that day?

3 A. I wasn't here. I don't know.

4 Q. After the narcotics unit, where were you
5 assigned?

6 A. Briefly, back to the intelligence unit.

7 Q. Do you know why Detective Sergeant Fisher
8 was assigned back to patrol?

9 A. No, ma'am.

10 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 MS. BELLANTONI: Off the -- so this is
12 confidential.

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SERGEANT ROBERT WUTTKE

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1 *****START CONFIDENTIAL*****
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24 *****END CONFIDENTIAL*****

SERGEANT ROBERT WUTTKE

1 Q. And so Sergeant Stufano was then the head
2 of the narcotics unit?

3 A. Yes, ma'am.

4 MS. BELLANTONI: That's not confidential,
5 that portion of it.

6 Q. How long did you stay in the intelligence
7 unit once you transferred out or were reassigned out
8 of narcotics?

9 A. A couple of weeks.

10 Q. What were the circumstances under which
11 you were reassigned out of the narcotics unit?

12 A. I don't know.

13 Q. Who made the decision to --

14 A. I don't know.

15 Q. Did you ask to be assigned out of the
16 narcotics unit?

17 A. No, ma'am.

18 Q. Was there any disciplinary issue during
19 the time period you were in the narcotics unit?

20 A. No, ma'am.

21 Q. And who supervised you when you were in
22 the intelligence unit for a couple of weeks?

23 A. Lieutenant Olifiers.

24 Q. And what time period was this that you

SERGEANT ROBERT WUTTKE

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1 were reassigned to the intelligence unit?

2 A. End of the spring, beginning of the summer
3 of 2010.

4 Q. And why weren't you allowed to stay in the
5 intelligence unit, if you know?

6 A. I was reassigned to general
7 investigations.

8 Q. Did you ask to be reassigned to general
9 investigations?

10 A. No, ma'am.

11 Q. Did you object to being reassigned to
12 general investigations?

13 A. No, ma'am.

14 Q. Who told you you needed to be reassigned
15 to general investigations?

16 A. Lieutenant Olifiers.

17 Q. And who made the decision to reassign you
18 to general investigations?

19 A. I don't remember who the commanding
20 officer was at that time.

21 Q. Do you know approximately how many arrests
22 you made while you were in the narcotics unit while
23 you were there?

24 A. Not a lot.

SERGEANT ROBERT WUTTKE

1 Q. What would be considered a very productive
2 arrest level or arrest number for the year in the
3 narcotics unit, if you know?

4 MR. SWEENEY: Object to the form, but you
5 can answer.

6 Q. Do you understand the question?

7 A. I understand the question. The --

8 Q. Wait. So let me rephrase that. And I
9 don't mean your opinion. Generally, what is the
10 consensus from being in the narcotics unit from the
11 people in the narcotics unit about what was a highly
12 productive level or number of arrests per year or
13 per month?

14 MR. SWEENEY: At what point in time?

15 MS. BELLANTONI: When he was there.

16 A. At least a couple of arrests a week.

17 Q. So between -- so approximately eight
18 arrests, eight to ten arrests, five to ten arrests
19 per month?

20 A. Eight to ten arrests would be very
21 productive.

22 Q. And during the time period that you were
23 in the narcotics unit for two years, were you able
24 to observe, from the arrest book, who or what -- the

SERGEANT ROBERT WUTTKE

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1 number of arrests that were made per individual?

2 A. I'm sure I could have. I don't know that
3 I ever sat down and counted who had the most
4 arrests.

5 Q. Was it talked about within the unit during
6 the two years you were there who was the highest
7 producer or who was bragging about being the highest
8 producer as far as productivity was concerned?

9 A. It was never really talked about, bragged
10 about, because the two detectives that were making
11 the most arrests, they -- we all knew they were
12 making the most arrests.

13 Q. And who were they?

14 A. Detectives Mason and Fegan.

15 Q. And did they work together or did they
16 have their own investigations --

17 A. While I was assigned there?

18 Q. Uh-huh.

19 A. They worked separately.

20 Q. And while you were there, when Officer
21 Antinini came into the unit, was he primarily
22 assigned to work with -- or did he end up working
23 mostly with Detective Fegan, or did he work with
24 other individuals?

SERGEANT ROBERT WUTTKE

1 A. His primary partner was Detective Fegan.

2 Q. Do you know if they had worked together
3 before?

4 A. I don't know.

5 Q. All right. How long were you in the
6 general investigations unit?

7 A. A couple of weeks.

8 Q. And who was your supervisor?

9 A. Sergeant -- or Detective Sergeant Joe
10 Clarke.

11 Q. And is -- you said Joe?

12 A. Yes.

13 Q. Is it Clarke with an E?

14 A. Yes.

15 Q. Is Detective Sergeant Clarke Caucasian?

16 A. Yes.

17 Q. And at the time that -- at the time that
18 Sergeant Fisher was supervising or heading up the
19 narcotics unit, were there any African-American
20 either police officers or detectives assigned to
21 that unit?

22 A. Yes, ma'am.

23 Q. And who were they?

24 A. Latheia Smith, Greg Addison, Courtney

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1 Besley. I think that's it.

2 Q. Is Chris Hutchins Caucasian?

3 A. Yes, ma'am.

4 Q. And Chris Ibanez?

5 A. Daniel Ibanez.

6 Q. Is he Caucasian?

7 A. Hispanic.

8 Q. And whose decision was it, if you know, to
9 have -- in other words, did Sergeant Fisher request
10 the individuals who made it into his unit or who
11 were assigned to his unit, or did someone other than
12 Sergeant Fisher make that determination about who
13 would be assigned to the narcotics unit?

14 A. While I was there?

15 Q. For those two years, during the time
16 period that you worked with the individuals you just
17 named.

18 A. Somebody else was making decisions.

19 Q. And who was that?

20 A. I don't know.

21 Q. Is that the point -- you had mentioned a
22 female in administration. I don't know if she was
23 the chief or deputy chief --

24 A. Chief Duncan?

SERGEANT ROBERT WUTTKE

1 Q. Duncan, yeah. And what was her title,
2 Chief Duncan?

3 A. Chief.

4 Q. And she was African-American?

5 A. No, ma'am.

6 Q. She was Caucasian?

7 A. Yes, ma'am.

8 Q. And would she have made the decisions as
9 to who would be reassigned in the detective bureau?

10 A. Ultimately, she would have say over any
11 decisions that were made with her assignments.

12 Q. At that point in time when you were in the
13 narcotics unit, who -- well, withdrawn.

14 So after a couple of weeks in the general
15 investigations unit, why is it that you stayed only
16 in these units for a couple of weeks? Had someone
17 left and there was an opening that they needed
18 assistance in that unit, or --

19 A. I was playing pinball because I was
20 waiting to be promoted. So I wasn't saying no to
21 anything.

22 Q. Oh, okay. Disconcerting. So what were
23 you waiting to be promoted to?

24 A. Sergeant.

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1 Q. When did you take the sergeant's exam?

2 A. First sergeant's exam I took was in 2006.

3 Q. Okay. And where did you place on the
4 sergeant's exam?

5 A. Number one.

6 Q. And the list came out in 2006?

7 A. I don't remember when the list was
8 certified. It was either the end of 2006 or
9 beginning of 2007.

10 Q. And how many positions were open at that
11 time?

12 A. When the list was certified, ma'am?

13 Q. Yes.

14 A. I don't know.

15 Q. Okay. Do you know who was behind you in
16 second, third, fourth?

17 A. Yes, ma'am.

18 Q. And who was that?

19 A. Vinny Dellamura, Joe Starace, Ed McCue,
20 Rob Scott, Vinny Stufano.

21 Q. In that order or just randomly?

22 A. No. I'm pretty sure that was the order.
23 There was more people on the list, but I don't
24 remember the -- you know, the rest of it.

SERGEANT ROBERT WUTTKE

1 Q. So were you promoted off that list?

2 A. No, ma'am.

3 Q. Who was promoted off the 2006, early 2007
4 sergeant's list?

5 A. Vinny Dellamura, Joe Starace, Rob Scott,
6 Vinny Stufano.

7 Q. And when did you next take the sergeant's
8 exam?

9 A. 2009.

10 Q. And what was your position when the list
11 was certified?

12 A. Two.

13 Q. Who was number one?

14 A. Greg Addison.

15 Q. And do you know who's behind you?

16 A. No. I know some of the names that were on
17 the list. I don't know the order.

18 Q. Who was promoted off the 2009 list?

19 A. Myself, Greg Addison, Sean Fegan, Adam
20 Grisanti --

21 Q. Can you spell that?

22 A. Grisanti, G-R-I-S-A-N-T-I. Steven Sexton,
23 Jennifer Carpenter, Sean Harris, Anthony Mitchell --

24 Q. They were all promoted?

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1 A. Yes, ma'am. Anthony McEachin. I think
2 that's everyone. Giglio Rucci [ph.].

3 Q. Was there a big turnover in employment
4 during that time period?

5 A. There's always a big turnover in Mount
6 Vernon.

7 Q. Do you know why?

8 A. Because we don't get paid enough to do the
9 work we do.

10 Q. Do you know if the sergeants and officers
11 that are on the job, do they live in Mount Vernon?
12 Do they live in the community?

13 A. Some do. Some don't.

14 Q. All right. So you were promoted off of
15 the 2009 sergeant's list; correct?

16 A. Yeah. I was promoted in June of 2010.

17 Q. Any disciplinary issues between the time
18 that you started the narcotics unit and the time you
19 were promoted in June 2010?

20 A. No, ma'am.

21 Q. And what was your assignment at that time,
22 in June of 2000 --

23 A. I was assigned as a patrol sergeant.

24 Q. And how many patrol sergeants were there?

SERGEANT ROBERT WUTTKE

1 A. Ten.

2 Q. Who did you report to?

3 A. Lieutenant Vincent Manziona.

4 Q. And how long did you stay in that
5 position?

6 A. As a patrol sergeant, ma'am?

7 Q. Yes.

8 A. Until October of 2010.

SERGEANT ROBERT WUTTKE

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1 *****START CONFIDENTIAL*****

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SERGEANT ROBERT WUTTKE

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SERGEANT ROBERT WUTTKE

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SERGEANT ROBERT WUTTKE

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*****END CONFIDENTIAL*****

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1 Q. During the time that you worked up until
2 this point in time, in the department, had anyone,
3 either directly accused you, or had you heard of
4 people having conversations or expressing the
5 opinion that you were bias or that you were racist
6 toward non-Caucasians?

7 A. Yes, ma'am.

8 Q. Okay. And did I ask you that question
9 before? I don't think I did.

10 A. I don't know.

11 MR. SWEENEY: We were expecting it though.

12 Q. During what time period?

13 A. I heard it throughout my career.

14 Q. Oh, okay. Do you have any reason to know
15 why anybody would -- would make those comments or
16 think that you would be racist?

17 A. I have no idea. Perhaps it's because of
18 the way I look.

19 Q. Do you have any tattoos or markings that
20 would indicate to someone that you may not be
21 favorable toward non-Caucasians?

22 A. No.

23 Q. Okay. Do you belong to any organizations
24 that are not favorable toward non-Caucasians?

1 A. No.

2 Q. Other than how you look, have you had any
3 negative interaction with individuals who are not
4 Caucasian that may have been interpreted as your
5 being racist as opposed to a personality conflict?

6 A. Negative interactions as far as what?

7 Q. Just on the job, you had a disagreement
8 with someone who may not be Caucasian, and it's, in
9 your opinion, maybe more of a personality conflict
10 rather than a racist view toward that individual or
11 that group of individuals.

12 A. As a police officer, I have been accused
13 numerous times of only doing what I'm doing because
14 the person is black and I am white.

15 Q. And what types of things or decisions have
16 you made that have been challenged under the
17 category of being racist?

18 A. Everything from writing a parking summons
19 to making an arrest to whether or not a police
20 report is going to be written.

21 Q. Okay. So we are talking about things that
22 involve the general community then and as you made
23 as a police officer in that context?

24 A. No. I've even heard it from police

SERGEANT ROBERT WUTTKE

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1 officers, that you only wrote him a ticket because
2 he's black.

3 Q. And what police officers have directly
4 made those statements to you?

5 A. I have heard it from several people.

6 Q. Can you just name, to the best of your
7 recollection, who has accused you within the
8 department of being racist or for making decisions
9 based on someone's race?

10 MR. SWEENEY: Objection to the form of the
11 question. But you can answer it, if you
12 understand it.

13 A. You want names of people that have accused
14 me of being a racist?

15 Q. Yes.

16 A. Is -- is that what you're asking?

17 Q. Yup.

18 A. Directly to my face, I have heard it from
19 Sergeant Krista Mann, now deceased Detective Stanley
20 Rice. Those are the only names I can think of off
21 the top. I have heard it in a joking manner from
22 other officers, but very clearly in a joking manner,
23 usually after having heard -- you know, kind of
24 mocking what had been said already.

SERGEANT ROBERT WUTTKE

1 Q. And the other officers are non-Caucasian?

2 A. Some were. Some weren't.

3 Q. So even white officers have made jokes

4 or --

5 A. Yes, ma'am.

6 Q. -- or have disguised their comments as
7 jokes in connection with them believing you were
8 racist or you did something that lead someone
9 thinking you were racist?

10 A. Yes, ma'am.

11 MR. SWEENEY: Objection to form. But you
12 can answer it, if you understand it.

13 THE WITNESS: Can we take a 30-second
14 break, because I need to use the restroom.

15 MS. BELLANTONI: Absolutely.

16
17 (Recess taken.)
18

19 BY MS. BELLANTONI:

20 Q. When you were promoted to sergeant along
21 with -- there were a lot of people that were
22 promoted along with you that you had mentioned. Do
23 you recall, approximately, how many people had
24 gotten promoted --

SERGEANT ROBERT WUTTKE

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1 A. There's a little confusion. When I was
2 promoted to sergeant, it was just myself and Greg
3 Addison.

4 Q. Okay.

5 A. Off of that list was all those other
6 people.

7 Q. Got it. At different times?

8 A. Yes, ma'am.

9 Q. And everybody who was promoted off of that
10 list, they were promoted within the same year, if
11 you know? Or how long does the list last?

12 A. That particular list, I don't know. It
13 could be up to four years long, as per the state.

14 Q. And when you were promoted, you were
15 promoted by Commissioner Bell?

16 A. No, ma'am.

17 Q. Who promoted you? Who was the
18 commissioner at the point in time you were promoted?

19 A. Didn't have a commissioner.

20 Q. Whose duties and responsibilities -- was
21 there a deputy commissioner?

22 A. No, ma'am.

23 Q. Who was at the head --

24 A. Chief Duncan.

SERGEANT ROBERT WUTTKE

1 Q. Okay. Chief Duncan. And at what point in
2 time did Commissioner Bell take the position as
3 commissioner?

4 A. The end of the summer, beginning of the
5 fall.

6 Q. Didn't you testify that you were promoted
7 on October 17th, 2010?

8 A. No, ma'am.

9 Q. Okay. When was your promotion then?

10 A. June of 2010.

11 Q. June.

12 A. October 17th was when I was notified I was
13 being demoted.

14 Q. Oh, okay. When you were in the position
15 of patrol sergeant, how many individuals did you
16 supervise?

17 MR. SWEENEY: At what point in time?

18 MS. BELLANTONI: Until he was no longer
19 patrol sergeant.

20 MR. SWEENEY: As opposed to current
21 duties?

22 MS. BELLANTONI: Yeah. So just -- so from
23 June of 2010 until October of 2010. Yup.

24 Q. When you were working in the capacity as a

SERGEANT ROBERT WUTTKE

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1 patrol sergeant, how many people did you supervise?

2 A. I think I had nine or ten officers
3 assigned to my squad.

4 Q. And were there any African-American
5 officers assigned to that squad?

6 A. Yes, ma'am.

7 Q. And who were they, if you can recall?

8 A. Montega Day [ph.], Nick Smith, Behia
9 Morris [ph.] --

10 Q. Can you spell that?

11 A. No, I can't.

12 Q. Okay. Morris --

13 A. Sorry.

14 Q. That's fine.

15 A. Morris. Yes, ma'am.

16 Q. Morris, M-O-R-S-E or M-O-R-R-I-S?

17 A. M-O-R-R-I-S.

18 Q. Okay.

19 A. Bear with me one moment. I think that's
20 it.

21 Q. Okay. And so, of the ten, three were
22 African-American?

23 A. That I can remember, yes.

24 Q. Okay. And so just to recap, you were

1 assigned to operations in December of 2010?

2 A. No. From October to December.

3 Q. From October to December. Okay. And then
4 where were you assigned?

5 A. Back to patrol.

6 Q. Okay. And so how long did you stay -- and
7 you were assigned to a patrol squad; correct?

8 A. Yes, ma'am.

9 Q. How long were you in that position?

10 A. Just over a year.

11 Q. And who did you report to?

12 A. Lieutenant Dennis Lifrieri.

13 Q. Did you work with a partner when you were
14 working on patrol?

15 A. At that time? No, ma'am.

16 Q. At any time?

17 A. Yes, ma'am.

18 Q. When, before then?

19 A. In the beginning of my career, I worked
20 what we referred to as sector baker, which is
21 traditionally a two-man patrol.

22 Q. Was that with your field training officer
23 or just another patrolman?

24 A. Just another patrolman.

SERGEANT ROBERT WUTTKE

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1 Q. Did you have any disciplinary proceedings
2 between the time that you were placed back in patrol
3 and when you were no longer in the patrol squad in
4 2011?

5 A. That was up until 2012. I'm sorry if I
6 misspoke. But no, I did not.

7 Q. [REDACTED]
[REDACTED]

9 MS. BELLANTONI: Well, just mark this as
10 confidential.
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SERGEANT ROBERT WUTTKE

*****START CONFIDENTIAL*****

[REDACTED]

*****END CONFIDENTIAL*****

SERGEANT ROBERT WUTTKE

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Q. And where were you assigned?

9

A. The detective's division.

10

Q. And who reassigned you there?

11

A. Trying to think who was in charge at that

12

particular moment. I believe it was either Deputy

13

Chief or Chief John Roland.

14

Q. Roland?

15

A. Roland.

16

Q. Was Commissioner Bell still the

17

commissioner?

18

A. Actually, yes, you are right. He was. He

19

was still the commissioner. So it would have been

20

Commissioner Bell.

21

Q. Oh, okay.

22

A. I'm sorry. I forgot.

23

Q. It's okay. So it would have been

24

Commissioner Bell that made that decision and not a



1 deputy chief?

2 A. Correct.

3 Q. And were you approached by someone letting
4 you know you were going to be reassigned, or had you
5 been putting the word out, or did you approach
6 someone to try to be reassigned out of patrol?

7 A. I was approached months prior to my
8 reassignment and asked, and I declined. And I said,
9 if I change my mind or when I feel that I am ready,
10 I will let you know.

11 Q. And who approached you?

12 A. Captain Dante Barrera.

13 Q. Do you know why he approached you?

14 A. He had been a supervisor in the detective
15 division when I had worked up there originally. He
16 knew my work ethic. He knew what I was capable of.
17 And he felt that I was wronged by the police
18 department, and I think he felt that that was the
19 right thing to do.

20 Q. To your knowledge, has anyone ever accused
21 Captain Barrera of making racial comments or being
22 racially disparaging towards non-Caucasians?

23 A. No.

24 Q. So did you -- was it the case that then

SERGEANT ROBERT WUTTKE

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1 you went back to Captain Barrera --

2 A. No, ma'am.

3 Q. -- and eventually -- so how did it go
4 about that you were reassigned into the detective
5 bureau?

6 A. After Captain Barrera passed away,
7 Lieutenant Manzione was put in charge. I had gotten
8 my wits about me, gotten myself back in a place
9 where I thought that I would be capable, able, and
10 willing to do the detective work again. And I
11 approached Lieutenant Manzione.

12 Q. And to what unit were you assigned in the
13 detective bureau?

14 A. General investigations.

15 Q. And how long did you stay in general
16 investigations?

17 A. Year-and-a-half. Just under that.

18 Q. So 2013, 2014?

19 A. To the middle of 2013.

20 Q. And who was your supervisor in general
21 investigations?

22 A. Depending on the particular moment,
23 Lieutenant Manzione, Sergeant Stufano, or Sergeant
24 McEachin or -- I'm sorry -- Captain Adinaro.

SERGEANT ROBERT WUTTKE

1 Q. And when were you reassigned from the
2 general investigations unit?

3 A. May or June of 2013.

4 Q. And where were you reassigned to?

5 A. Major case squad.

6 Q. Was that still in the detective division?

7 A. Yes, ma'am.

8 Q. Is that something that you requested, or
9 did they just move you?

10 A. They moved me.

11 Q. Who made that decision?

12 A. Captain Adinaro.

13 Q. Do you know?

14 A. Yes. Because they had -- excuse me. They
15 hadn't had a major case squad or major case unit in
16 several years. They were forming a major case unit
17 again. Captain Adinaro approached me and told me
18 that he was reassigning me there.

19 Q. During the time period that you were in
20 the general investigations unit, your title was
21 police officer or patrolman?

22 A. Yes, ma'am.

23 Q. And did you conduct investigations on your
24 own during that time period?

SERGEANT ROBERT WUTTKE

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1 A. Yes, ma'am.

2 Q. Did you have a conversation with anyone in
3 connection with whether you were going to be
4 provided with your gold shield or promoted to
5 detective, considering the number of months or years
6 that you had --

7 A. No.

8 Q. -- been in the detective division?

9 A. No, ma'am.

10 Q. Did it cross your mind that -- well,
11 withdrawn.

12 Did you speak with anyone about your
13 desire to be promoted, or even if you had the desire
14 to be promoted to detective?

15 A. At that time?

16 Q. At any time.

17 A. Yes.

18 Q. When?

19 A. Before I was promoted to sergeant in 2010.

20 Q. And who did you talk to?

21 A. Captain Barrera.

22 Q. And what did he say?

23 A. There's no detective shields available
24 right now.

1 Q. Was that because there was no line or
2 there was nothing in the budget for a detective spot
3 or no opening in the detective spot?

4 A. That's what I believed. I'm sorry.
5 That's what I believe he meant by that.

6 Q. Okay. Did you come to learn that it meant
7 something else?

8 A. No, ma'am.

9 Q. And in 2010, who would have made the
10 decision to promote you to detective?

11 A. Decision would have been made by the
12 mayor.

13 Q. Who was the mayor at that time?

14 A. Clinton Young.

15 Q. And who was the commissioner?

16 A. Depends on when in 2010. At the time,
17 when I was questioning whether I was going to get a
18 detective shield, we didn't have a commissioner.

19 Q. Who was the deputy commissioner?

20 A. We didn't have one of those back then. It
21 would have been Chief Duncan.

22 Q. Was it Chief Duncan?

23 A. Yes, ma'am.

24 Q. And was there a point in time in 2010 when

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1 there was a commissioner? That would have been
2 Commissioner Bell?

3 A. There you go.

4 Q. And we know why that didn't happen or
5 wasn't going to happen. Okay. So once you had gone
6 back to the detective division in either general
7 investigations or major case squad, did you bring up
8 the topic of being promoted to detective or getting
9 a gold shield?

10 A. No, ma'am.

11 Q. Did it cross your mind?

12 A. Yes, ma'am.

13 Q. And did you talk to anybody about?

14 A. No, ma'am.

15 Q. Why?

16 A. Didn't matter that much.

17 Q. Why?

18 A. Because it's financially not that much
19 more money, and after I had seen some of the people
20 that were issued detective shields that weren't
21 deserving of them, it didn't really mean anything to
22 me.

23 Q. Lost its value?

24 A. Yes, ma'am.

SERGEANT ROBERT WUTTKE

1 Q. Can you please provide some examples of
2 individuals who received their detective shield
3 that, in your opinion or even other people's
4 opinions, shouldn't have or didn't earn that
5 promotion?

6 A. Kelly Marlow, Patrick Gene Jerome. Those
7 are the two that stick out in my head right now.

8 Q. Okay. And what was the consensus as to
9 why, if there was a consensus, or talk within the
10 department why Kelly Marlow shouldn't have been
11 promoted to detective?

12 A. She didn't work in the detective division.

13 Q. Who made the decision, if you know, to
14 promote her?

15 A. I believe it was requested by then
16 Commissioner Chong to whoever the mayor was at that
17 time.

18 Q. Clinton Young?

19 A. I don't know if it was Clinton Young or if
20 it was Ernest Davis.

21 Q. Do you know whether -- or do you know
22 under what circumstances Chong had requested that --

23 A. No, I don't.

24 Q. Did they have any relationship? Did they

SERGEANT ROBERT WUTTKE

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1 know each other prior to the promotion? Or did they
2 have a social relationship, if you know?

3 A. She worked as his secretary.

4 Q. Before she became a police officer?

5 A. While she was a police officer. I'm
6 sorry. She worked as his clerk, administrative
7 clerk.

8 Q. He was commissioner; correct?

9 A. Yes, ma'am.

10 Q. For how long did she work as his
11 administrative clerk, if you know?

12 A. I don't know. I don't know.

13 Q. Okay. Was -- prior to being promoted to
14 detective, was she assigned -- prior to being the
15 administrative clerk, was she assigned to patrol?

16 A. Yes, ma'am.

17 Q. Had she ever been assigned anywhere but
18 patrol before --

19 A. Yes, ma'am.

20 Q. Okay. Where?

21 A. Personnel.

22 Q. And do you know what position she held in
23 personnel?

24 A. The personnel officer.

SERGEANT ROBERT WUTTKE

1 Q. Is it your understanding that personnel
2 officers, at any time, conduct investigations?

3 A. I'm sorry. Do --

4 Q. Yes. The personnel officer title, does
5 that involve conducting investigations of any kind?

6 A. No, ma'am.

7 Q. Okay. And what was either your opinion or
8 the rumor or consensus in the department as to why
9 Gene Jerome should not have been awarded the gold
10 shield?

11 A. He hadn't done any detective work at that
12 point.

13 Q. Who made the decision to -- to give him
14 that promotion?

15 A. Chief Duncan.

16 Q. Do you know, or is there speculation as to
17 why that decision was made?

18 A. My speculation was because he was the PBA
19 president at the time.

20 Q. And during that time period that he was
21 the PBA president and/or -- withdrawn.

22 Did he resign as the PBA president when he
23 was promoted to detective?

24 A. No, ma'am.

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1 Q. Are you aware of any complaints by PBA
2 members that grievances were not being filed at any
3 time when Gene Jerome was the PBA president prior to
4 his becoming detective?

5 A. I'm not aware of any.

6 Q. What about after he became detective?

7 A. I'm not aware of any.

8 Q. It's your testimony that he had never been
9 assigned to the detective division --

10 A. No.

11 Q. -- prior to being promoted?

12 A. That was not my testimony.

13 Q. Okay. So let's be clear then. What, if
14 any, experience or assignments did he have to the
15 detective division prior to being promoted to
16 detective, if you know?

17 A. He worked in -- he worked in RCIU, which
18 is our criminal identification unit.

19 Q. Do you know for how long?

20 A. I don't know the time frame, no.

21 Q. Could it have been at least 18 months?

22 A. I guess it could have been. It could have
23 been. I don't think it was, but it could have been.

24 Q. Okay. Anyone else that should have gotten

1 the -- withdrawn.

2 Anyone else that received a gold shield
3 that, in your opinion, or was the general consensus
4 that did not deserve it?

5 A. Can you just rephrase or give me the time
6 frame that we're talking about again?

7 Q. Between 2010 and the present date.

8 A. And the present date?

9 Q. Uh-huh.

10 A. Oh, I can name plenty more.

11 Q. Okay.

12 A. Johnny Camacho.

13 Q. When was that?

14 A. Just recently.

15 Q. Who made that decision?

16 A. Whoever was in charge now.

17 Q. Who's in charge now?

18 A. I'm trying to think of when his promotion
19 was. I believe it was -- I think Commissioner Kelly
20 was the commissioner at the time and the mayor,
21 Richard Thomas.

22 Q. Anyone else?

23 A. Michael Plunkett [ph.].

24 Q. Who made that decision?

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1 A. Same time frame. So it would have been
2 Mayor Thomas.

3 Q. Anyone else?

4 A. Paul Roland. That was a while ago though.
5 I'm sorry. I should have mentioned that one
6 earlier.

7 Q. And what year was that, approximately?

8 A. 2009 or 2010.

9 Q. Anyone else?

10 A. Richard Arzon.

11 Q. Can you spell that?

12 A. A-R-Z-O-N.

13 Q. And what's the time frame?

14 A. Richard Arzon was just recently, under
15 Mayor Thomas.

16 Q. And why do you feel that Richard Arzon
17 should not have been promoted?

18 A. He's never worked in the detective
19 division or done investigations.

20 Q. Same with Paul Roland?

21 A. Paul did work in the detective division,
22 but the time he was given the detective shield, he
23 was our property clerk.

24 Q. Officer Plunkett?

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1 A. Never worked in the directive division or
2 done investigations.

3 Q. Officer Camacho?

4 A. Same thing.

5 Q. Anybody else?

6 A. I think that's it.

7 Q. Richard Arzon is Caucasian?

8 A. Hispanic.

9 Q. Paul Roland?

10 A. White.

11 Q. Plunkett?

12 A. White.

13 Q. Camacho?

14 A. Is Hispanic.

15 Q. Kelly Marlow?

16 A. White.

17 Q. Gene Jerome?

18 A. Black.

19 Q. Now, the flip-side. Are you aware of any
20 individuals who worked in the detective bureau, did
21 investigations or who worked there for at least 18
22 months who were not awarded, other than yourself,
23 the detective shield?

24 A. Yes.

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1 Q. Who?

2 A. Detective Edward McCue.

3 Q. Anyone else?

4 A. I'm trying to think of other people. You
5 just got to bear with me. It's a lot of names to go
6 through in my head.

7 Q. Take your time.

8 A. Detective Antinini.

9 Q. When did he get his shield? You said
10 "detective." So ultimately, he was awarded --

11 A. The same day that I got my shield.

12 Q. Okay. When was that?

13 A. Beginning of January, 2014.

14 MR. SWEENEY: So this is a category --
15 just so I'm clear, this is a category of
16 officers that either didn't get a detective
17 shield or didn't get it after 18 months?

18 THE WITNESS: That's how I understood the
19 question.

20 MS. BELLANTONI: Yes. Yup.

21 Q. Did Officer McCue eventually get the
22 shield?

23 A. Yes, sir. Yes, ma'am. I'm sorry. I
24 apologize.

SERGEANT ROBERT WUTTKE

1 Q. That's all right. And when was that?

2 A. I don't remember.

3 Q. Okay. And anyone else?

4 A. Wendel Griffin. Or Wendel. I'm not
5 really a hundred percent sure how to pronounce his
6 name.

7 Q. Have you been criticized for not
8 pronouncing his name correctly?

9 A. No, ma'am, because I never pronounce his
10 first name.

11 Q. Did he eventually get his shield?

12 A. Yes, ma'am.

13 Q. And when was that, do you know?

14 A. Same time I did, January of 2014.

15 Q. Who made the decision to award the shields
16 in January of 2014?

17 A. Who was in charge then? Mayor Davis was
18 the mayor. Commissioner Raynor was the
19 commissioner.

20 Q. But do you know who, I guess, initiated
21 the process and under what circumstances --

22 A. No, I'm not aware. I was told one day by
23 Captain Adinero that, you have done more than 18
24 months. Thursday, you are getting your shield.

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1 Q. Anybody else?

2 A. Off the top of my head, I can't think of
3 anybody else.

4 Q. Other than yourself, Detective Antinini
5 and Detective Griffin, in January of 2014, did
6 anyone else receive their detective shield?

7 A. Yes, ma'am.

8 Q. And who would that be?

9 A. I know Montega Jones was there.

10 Q. Is she the wife of David Jones?

11 A. Yes, ma'am.

12 Q. And had she worked in the detective
13 division?

14 A. Yes, ma'am.

15 Q. Do you know for how long?

16 A. No, ma'am.

17 Q. Anyone else?

18 A. There was somebody else. And for the life
19 of me, I can't remember who it was.

20 Q. Was it another female officer?

21 A. I can't remember.

22 Q. Do you know whether that individual ever
23 worked in the detective division -- that individual
24 ever worked or served in the detective division?

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1 A. Yes, ma'am.

2 Q. Okay. And where were they assigned; do
3 you know?

4 A. I don't know, because I can't remember who
5 it was. I want to say it was now detective Jamie
6 McKinney, but I'm not a hundred percent sure.

7 Q. At the time that you and Detective
8 Antinini, Detective Griffin, Detective Jones, and
9 possibly Detective McKinney, were awarded gold
10 shields, were all of you -- or were each of these
11 individuals presently assigned to and working in the
12 detective division?

13 A. Yes, ma'am.

14 Q. Is it your understanding that, in order to
15 receive a gold shield for individuals to have worked
16 for at least 18 months in an investigative capacity
17 in the detective division, that, at the time that
18 they were awarded the gold shield, that they have to
19 presently, you know, under the policy and procedure
20 of the department -- have to presently be working in
21 the detective division?

22 A. I don't know.

23 Q. Or detective capacity?

24 A. I don't know.

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1 Q. All right. So after you were assigned in
2 May or June of 2014 to the major case squad, how
3 long did you spend in that squad?

4 A. Four months. Five months.

5 Q. And then where were you assigned?

6 A. Back to general investigations.

7 Q. And why? Under what circumstances?

8 A. They were short in general investigations,
9 and I was the junior officer, junior person in the
10 detective division that was assigned to the major
11 case squad.

12 Q. And how long did you spend in general
13 investigations?

14 A. Until February of 2014.

15 Q. And by that time, you had already received
16 your shield?

17 A. I received my shield in January of 2014.

18 Q. And then where were you assigned in
19 February of 2014?

20 A. Back to patrol.

21 Q. In what capacity?

22 A. Sergeant.

23 Q. Who made that decision?

24 A. Mayor Davis was the mayor. Commissioner

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1 Raynor was the commissioner.

2 Q. Okay. But do you know who made the
3 decision, who made the recommendation that you be
4 reassigned to patrol?

5 A. That's -- in my experience, this is the
6 usual protocol when you get promoted to sergeant.

7 Q. Oh, that's when you made your promotion?

8 A. I got promoted in February of 2014.

9 Q. Okay. A month after you got your shield?

10 A. Yes, ma'am.

11 Q. Were you already on the list at the point
12 in time that you received your detective shield?

13 A. Yes, ma'am.

14 Q. And how long did you remain as a patrol
15 sergeant?

16 A. Still am, ma'am.

17 Q. Okay. So from February 2014 to the
18 present?

19 A. Yes, ma'am.

20 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]

MS. BELLANTONI: Okay. So this is
confidential.

[illegible]

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[illegible]

[illegible]

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SERGEANT ROBERT WUTTKE

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SERGEANT ROBERT WUTTKE

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SERGEANT ROBERT WUTTKE

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*****END CONFIDENTIAL*****

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1 Q. I'm going to turn your attention to your
2 supervision of Officer Bovell.

3 A. Uh-huh.

4 Q. So at some point in time, Officer Bovell
5 returned to patrol from the detective bureau;
6 correct?

7 A. Yes.

8 Q. Do you remember at what point in time that
9 was?

10 A. No.

11 Q. All right. I'm going to show you what's
12 been marked as Plaintiff's Exhibit Number 3 -- 13,
13 which is Bates stamped number 0009, which is a
14 personnel order. Does that refresh your
15 recollection as to when Officer Bovell was
16 transferred to patrol?

17 A. Yeah. January 1st, 2014.

18 Q. And at that time, was he assigned to your
19 squad?

20 A. No, ma'am.

21 Q. Whose squad, if you can recall, was he
22 assigned to?

23 A. I don't know. I was still in the
24 detective division on January 1st of 2014.

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1 Q. Just -- okay. So in February, when you
2 were promoted and went to the position of a patrol
3 sergeant, at that point in time, was Officer Bovell
4 assigned to your squad?

5 A. We didn't have the same squad system as we
6 did when I was first a patrol sergeant. I was in a
7 squad of myself, another sergeant, and lieutenant.
8 There was squads assigned to day tours, 4 to 12s,
9 midnights. I worked a rotating shift. So he was
10 not assigned to my squad.

11 Q. Okay. Did you have supervisory authority
12 over him at any point in time after he was
13 transferred back into patrol?

14 A. Yes, ma'am. After my transfer back.

15 Q. After his transfer there, and you got
16 there after your promotion?

17 A. Yes, ma'am.

18 Q. So from that point in time until the time
19 that Officer Bovell was out on leave in and around
20 September of 2014, how often were your schedules
21 aligned? In other words, what was your -- what was
22 the regularity of your supervision over Officer
23 Bovell?

24 A. To the best of my recollection, it was

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1 either one day or two days every three weeks.

2 Q. Had you had any prior contact or
3 experience with Officer Bovell, either in a
4 professional or social context?

5 A. Of course.

6 Q. Okay. Yes?

7 A. Yes, ma'am. I'm sorry.

8 Q. Okay. And what had been your interaction
9 with Officer Bovell?

10 A. When I was in the detective division, he
11 was working narcotics. So we would see each other
12 at work. I'm sure there were times that either he
13 or I worked overtime or we could have both been
14 working overtime and ended up crossing paths.

15 Q. Did you ever work together on any specific
16 assignments?

17 A. Not that I can recall.

18 Q. And when you said you worked in the
19 narcotics unit, was that the two solid years that
20 you were assigned there or a different point in
21 time?

22 A. No. I said he worked in narcotics. I was
23 assigned to the detective division. He was assigned
24 to narcotics, which is part of the detective

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1 division.

2 Q. Yes. Okay. So that's not -- so you were
3 in the detective division, but not in the narcotics
4 unit?

5 A. That's correct.

6 Q. Where were you assigned?

7 A. General investigations.

8 Q. And what was the time frame?

9 A. I was in general investigations from 2012
10 to 2000 -- middle of 2013 and then back again at the
11 end of 2013.

12 Q. So was it during that time frame that you
13 were both working, at some point, in the detective
14 division?

15 A. Yes.

16 Q. Being in two different units, you had no
17 common investigations and no opportunity to work
18 with each other; correct?

19 A. Correct.

20 Q. Okay. So at some point in time, you were
21 asked to conduct a performance evaluation on Officer
22 Bovell?

23 A. Yes.

24 Q. A yearly evaluation; correct?

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1 A. Yes, ma'am.

2 Q. How often were those yearly evaluations
3 done -- that was silly.

4 At what point during the year are the
5 yearly evaluations typically conducted?

6 A. April.

7 Q. And before April of 2014, had you
8 evaluated any subordinates in the manner in which
9 you were evaluating Officer Bovell and others in
10 April of 2014?

11 A. I may have done end-of-probation
12 evaluations the first time I was a supervisor in
13 2010, but annual personnel evaluation on an officer
14 that was not coming off probation that had been with
15 the department, I don't recall ever doing -- well,
16 that was the first set of evaluations I did.

17 Q. Okay. And when you are doing
18 end-of-probation evaluations, is it the case that
19 you are typically just making sure that the person
20 is competent for the position and hasn't deviated
21 from the policies and procedures significantly, such
22 that they shouldn't be recommended for termination?

23 A. We use the exact same form.

24 Q. Okay.

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1 A. So the structure is exactly the same. But
2 it's just to -- I don't know the purpose of it,
3 aside from documentation that they have completed
4 their probation, and the supervisor is signing off
5 on it.

6 Q. So if -- so as you sit here, you are not
7 sure whether you even conducted those evaluations in
8 2010?

9 A. Yeah. I don't know if I did. I think I
10 did, but I am not going to say I did a hundred
11 percent.

12 Q. And if you did, at the most, the
13 individual or individuals that you evaluated, you
14 would have been supervising for two months?

15 A. Yes, ma'am.

16 Q. Who would -- who, in 2010, assigned you
17 the tasks of evaluating individuals that you, at
18 most, had supervised for a period of two months?

19 A. End-of-probation evaluations have to be
20 done by the supervisor that is currently assigned as
21 the squad supervisor.

22 Q. Is that a written policy?

23 A. I don't know.

24 Q. Is that a policy nonetheless, as you

1 understand it?

2 A. Uh-huh.

3 Q. How long is probationary period?

4 A. 18 months.

5 Q. And when you are conducting those
6 investigations, did you seek input from the
7 individual who supervised them during the preceding
8 16 months?

9 A. Yes.

10 Q. And do you recall who that was in 2010?

11 A. No.

12 Q. Okay. So in April of 2014, you conducted
13 the annual evaluations for the people that you were
14 supervising in patrol; correct?

15 A. Yes, ma'am.

16 Q. Who -- who were they? Who were you
17 evaluating in April of 2014?

18 A. I would have to see a list to give you a
19 hundred percent of the names. I know Police Officer
20 Pacino is on there, Police Officer O'Rourke, Police
21 Officer Bovell, Police Officer Williams. I know
22 there's more. I can't remember who else is on the
23 list. I would need to see the list.

24 Q. Who was those individuals' supervisor

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1 prior to your moving into the position of patrol
2 sergeant?

3 A. I don't know.

4 Q. Had you supervised each of the individuals
5 that you named from February 2014 to April of 2014?

6 A. At some point or another, yes.

7 Q. Other than Officer Bovell, were any of the
8 other officers -- had any of the others -- had any
9 of the other officers transferred into the patrol
10 division from another division during the time
11 period immediately preceding their evaluation?

12 A. I don't believe so.

13 Q. So they had all been pretty much in the
14 patrol division for a significant amount of time
15 before their evaluation was conducted?

16 A. I believe so, yes.

17 Q. Were any of them probationary evaluations?

18 A. The set that I did in April, no.

19 Q. Right. And so we talked about policy and
20 procedure about probationary evaluations and how
21 whoever was supervising those individuals must be
22 the one to do that evaluation. Is there a similar
23 policy for patrol sergeant, that the individual --
24 individuals that you are supervising in April of

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1 2014 must be evaluated by you, because, at that
2 point in time, you are their supervisor?

3 A. Yes, ma'am.

4 Q. And how many other patrol sergeants were
5 there in April of 2014?

6 A. Seven to nine. I'm not a hundred percent
7 sure.

8 Q. And is there any written policy that you
9 are aware of that requires that the individual who
10 is the patrol supervisor in April of 2014 must be
11 the individual who performs the evaluation?

12 A. A written --

13 Q. Policy or procedure.

14 A. There's an order that comes out every year
15 in the middle of March that all officers are to
16 complete the annual evaluation on whoever is under
17 their command.

18 Q. And prior to performing Officer Bovell's
19 evaluation in April of 2014, did you seek out any
20 other supervisor who may have supervised Officer
21 Bovell for the preceding year to gain perspective on
22 his actual performance, since you had only
23 supervised him for February, March, and a portion of
24 April and, to that extent, one to two days every

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1 three weeks?

2 A. No.

3 Q. Did you feel comfortable evaluating
4 Officer Bovell's performance when you had only
5 supervised him for two or two-and-a-half months and
6 only to the extent that you supervised him one to
7 two days every three weeks?

8 A. I've never felt comfortable about doing
9 the evaluations the way they are being done
10 currently, because, as supervisors, we don't have
11 the day-to-day interaction with the police officers
12 as we used to have when we were in the old squad
13 system.

14 Q. When did that squad system -- when did
15 that change over into the present system?

16 A. January of 2014.

17 Q. And do you know whose decision that was,
18 or --

19 A. I believe it was an agreement between the
20 PBA and the department and the city.

21 Q. Did you express any concern, or did you
22 make any complaint to any of your supervisors about
23 having to evaluate the performance of an individual
24 that you hadn't really supervised substantially at

1 the time that you had to evaluate him?

2 A. Official complaints or --

3 Q. No, anything.

4 A. Of course.

5 Q. Who did you complain to?

6 A. I spoke to my partner, who was another
7 sergeant.

8 Q. Who's that?

9 A. Robert Scott.

10 Q. Was he in the same position?

11 A. Yes. Patrol supervisor as well.

12 Q. And was he also responsible for doing an
13 evaluation of an individual or individuals that he
14 had not supervised for longer than roughly two or
15 three months?

16 A. He was in the position that he was doing
17 evaluations on people that he may have seen once or
18 twice every three weeks.

19 Q. And what criteria -- well, let me just
20 back up. Did you receive any training or
21 instruction or mentoring, whether formally or
22 informally, in connection with completing these
23 written evaluations or the criteria to use when
24 evaluating your subordinates?

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1 A. Yes.

2 Q. From whom?

3 A. Lieutenant Gallagher.

4 Q. And when was that?

5 A. End of March, beginning of April 2014.

6 Q. Because -- was that because you sought
7 that out, or it was offered to all the patrol
8 sergeants?

9 A. No. It was because I sought it out.

10 Q. And what did he instruct you?

11 A. He briefly explained what needed to be in
12 there, how to pull stats or how to have the stats
13 pulled, what to look for, and to be as generic and
14 brief as possible, because the way the evaluation is
15 being done didn't really make much sense to anybody.

16 Q. And who ultimately reviewed those
17 evaluations?

18 A. I don't know who ultimately reviewed them.
19 I finished -- after I completed them, Lieutenant
20 Gallagher reviewed them.

21 Q. And, to your knowledge, did those
22 evaluations have any bearing on raises or promotions
23 or reassignments to other squads or divisions?

24 A. To my knowledge, I don't believe so.

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1 Q. Then what's -- what was the purpose of
2 the -- as far as you know, having worked in the
3 department, what is the purpose of the performance
4 evaluations?

5 A. To keep the accredited agency status.

6 Q. Through what agency?

7 A. DCJS.

8 Q. And do you know whether those evaluations
9 are provided to DCJS?

10 A. I don't know. I know it's a DCJS
11 requirement for an accredited agency to make sure
12 that there's yearly evaluations done on all the
13 members.

14 Q. Yearly evaluations or qualifications?

15 A. Yearly evaluations.

16 Q. Is it also a requirement that
17 qualifications be conducted on a yearly basis?

18 A. What type of qualifications?

19 Q. Firearm qualifications, any kind of
20 training --

21 A. I believe firearm qualification is a
22 yearly requirement.

23 Q. What about physical endurance and --

24 A. No, ma'am.

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1 Q. That's not a requirement?

2 A. Not that I know of.

3 Q. Was it ever a requirement?

4 A. Not that I know of.

5 Q. Who, if anyone, did you -- well,
6 withdrawn.

7 What criteria did you consider in your
8 evaluation of Officer Bovell?

9 A. Sick time, summons productivity, arrest
10 productivity, and any complaints that I had heard
11 of, heard or investigated.

12 Q. Formal complaints or informal complaints?

13 A. Both.

14 Q. And the criteria that you used, was that
15 criteria that had been provided to you by Lieutenant
16 Gallagher?

17 A. Yes, ma'am.

18 Q. Did you take into consideration any other
19 criteria that you did not discuss with Lieutenant
20 Gallagher? In other words, maybe Lieutenant
21 Gallagher said, you know, you should consider sick
22 time and productivity, but you decided you were
23 going to add in, you know, complaints and whether
24 anyone was complaining about the individual.

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1 A. No, ma'am.

2 Q. Okay. So everything that you considered
3 came from the direction of Lieutenant Gallagher?

4 A. The suggestion of Lieutenant Gallagher,
5 yes.

6 Q. Okay. With respect to sick time, what if
7 any information did you have in connection with his
8 evaluation?

9 A. I'm sorry. I don't understand your
10 question.

11 Q. So you said sick time was something that
12 you considered when you were conducting the
13 evaluation?

14 A. Yes.

15 Q. And were there any issues with respect to
16 Officer Bovell's sick time?

17 A. I'm trying to think time frames. You will
18 have to just bear with me for a second. Personally,
19 I didn't believe there was an issue with his sick
20 time at any point.

21 Q. Who did you speak to? Or who spoke to
22 you? Or what information did you receive? And who
23 did you receive it from, if any, with respect to
24 Officer Bovell's sick time and possible disciplinary

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1 action in connection with that?

2 MR. SWEENEY: Objection as to the form,
3 but you can answer it.

4 A. Can you clarify it? There's a lot there.

5 Q. You said you personally didn't believe
6 there was an issue with his sick time --

7 A. Yes.

8 Q. -- which leads me to think that someone
9 did think there was an issue. Was there someone
10 else that did believe it was an issue?

11 A. I don't believe that the issue was
12 directed towards Officer Bovell.

13 Q. Well, irrespective of who it was directed
14 toward, where did it come from?

15 A. Captain Hastings.

16 Q. To you?

17 A. To all the patrol supervisors.

18 Q. In a meeting?

19 A. In an email.

20 Q. Do you still have a copy of that email?

21 A. I do.

22 MS. BELLANTONI: Okay. If you can provide
23 it to Mr. Sweeney.

24 THE WITNESS: Yes, ma'am.

1
2 DOCUMENT/INFORMATION REQUESTED:
3

4 Q. So, in substance, what did the email say?

5 A. All patrol supervisors are to monitor or
6 are to check the sick time of members under their
7 command and ensure compliance with the department's
8 chronic sick policy.

9 Q. I'm not going to ask you to go from
10 memory. So I'm going to show you what's been marked
11 as Plaintiff's Exhibit 18, which is Bates stamped
12 138 through 141. And it's entitled, "Administrative
13 Guide, Chronic Absence Control, issued 1993, revised
14 2009." Is that -- just take a look at the document.

15 A. Yeah.

16 Q. Is that, to your knowledge, the policy
17 that was in place at the time that you performed
18 Mr. Bovell's or Officer Bovell's evaluation?

19 A. Yes, ma'am.

20 Q. Were you given any directions from Captain
21 Hastings about how to or what steps to take in order
22 to identify individuals who were abusing sick time?

23 A. I'm confused by your question.

24 Q. So you were given an email that spoke to